

DD/S 11-3530

DD / S R E G I S T R A R

E I L E

8 SEP 1971

MEMORANDUM FOR: Mr. William H. Rehnquist
Chairman, Security Review Committee

SUBJECT : Safeguarding Official Information in the
Interests of the Defense of the United
States (Executive Order 10501, as
amended)

I referred your memorandum entitled "Sanctions for Violation of Security Provisions of Executive Order 10501" to our Office of General Counsel for review. Their comments are set forth below:

"We agree that paragraph A, which recommends that the existing language authorizing disciplinary action against federal employees who make unauthorized disclosure of classified material, be retained substantially intact."

"As to criminal sanctions, we agree that 18 U.S.C. 793(b) should be amended so that disclosure of classified information to any unauthorized person would be a crime. However, we strongly disagree with the suggestion that there be added the requirement that the classification assigned must have been either Secret or Top Secret. Executive Order 10501, in defining the various classifications, simply grades them as to seriousness of injury to the United States, and unauthorized disclosure, even at the Confidential level, is defined in terms of some injury to the United States. If an injury will result from unauthorized actions, we believe there should be criminal sanctions. It is of interest that in the Scarbeck case one of the three documents involved was Confidential and the other two were Secret."

"We particularly agree with the draft's suggestion that any amendment go forward in the Department of Justice's report on the Brown Commission proposals early next year."

"In the Agency's memorandum to Mr. Rehnquist of 20 August 1971, there was included in the attachments a proposal for an injunction proceeding. This proposal is substantially based on 42 U.S.C. 2280, which authorizes injunction proceedings where the Atomic Energy Commission believes there is a violation or threatened violation of the Atomic Energy Act with respect to disclosure of Restricted Data. We believe that a similar injunction authority should be available for any violation of laws relating to disclosure of classified information. In The New York Times and The Washington Post cases, several of the opinions pointed to the lack of a statute authorizing the injunction which the Government was seeking."



CIA Member

STAT

cc: Mr. Howard C. Brown, Jr. - AEC
Mr. Joseph J. Liebling - Defense
Mr. William D. Blair, Jr. - State
Mr. Thomas K. Latimer - NSC

**SUBJECT: Safeguarding Official Information in the Interests of the
Defense of the United States (Executive Order 10501, as
amended)**

CONCURRENCES:

STATINTL

15/
for **Lawrence R. Houston**
General Counsel

8 SEP 1971

Date

S I G N E D

John W. Coffey
Deputy Director
for Support

8 SEP 1971

Date

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